

NOT FOR PUBLICATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Orlando CARDONA-ROSARIO,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Civ. No. 10-1064 (AET)

MEMORANDUM & ORDER

THOMPSON, U.S.D.J.

This matter having come before the court upon Petitioner Orlando Cardona-Rosario's Motion for Leave to Appeal *in forma pauperis* and request for the appointment of counsel under the Criminal Justice Act, 18 U.S.C. § 3006A(a)(2)(B), (c); and it

APPEARING that the Federal Rules of Appellate Procedure require a party seeking to appeal *in forma pauperis* to file a motion in the district court attaching an affidavit that: (1) describes in detail the party's inability to pay or to give security for fees and costs, (2) claims an entitlement to redress, and (3) states the issues that the party intends to present on appeal, Fed. R. App. P. 24(a)(1); and it

APPEARING that Plaintiff or his agent has described Plaintiff's inability to pay or to give security for fees and costs and has claimed an entitlement to redress and has stated the issues that he intend to present on appeal; and it

APPEARING that under the Criminal Justice Act representation may be provided for any financially eligible person seeking relief under 28 U.S.C. § 2255 if the Court determines that the interests of justice so require, 18 U.S.C. § 3006A(a)(2)(B); and it

APPEARING that under the Criminal Justice Act, if at any stage of the proceedings, including an appeal, the Court finds that the person is financially unable to pay counsel whom he had previously retained, it may appoint counsel and authorize payment as the interests of justice may dictate, 18 U.S.C. § 3006A(c); and it

APPEARING that compensation for counsel appointed under 18 U.S.C. § 3006A is generally awarded from the court before which they appear;

IT IS on this 6th day of December, 2011,

ORDERED that the December 5, 2011 Memorandum & Order is VACATED [docket #33]; and it is

ORDERED that Petitioner's Motion for Leave to Appeal *in forma pauperis* [70] is GRANTED; and it is

ORDERED that to the extent that counsel wishes to be appointed as attorney for the Petitioner on appeal pursuant to Criminal Justice Act, 18 U.S.C. § 3006A(c), that he direct such inquiry to the United States Court of Appeals for the Third Circuit; and it is further

ORDERED that no certificate of appealability is issued.

/s/ Anne E. Thompson
ANNE E. THOMPSON, U.S.D.J.